IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5537 OF 2004

Shri.Prakash Ajabrao Aware ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.A.P.Mundargi with Mr.S.P.Kadam for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 23, 2004.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. From the materials on record, it appears that the incident in question must have happened. The argument of Mr.Mundargi for Applicant that the circumstances would indicate that it is improbable that such an offence must have taken place in the residential house, where other family members were

also present, cannot be accepted at this stage.

3. For the purposes of considering bail application, suffice it to note that the version of the prosecutrix clearly indicates the complicity of the Applicant and which is supported by the medical evidence. Indeed, from the medical report on record, it is possible to argue that the offence of rape has not taken place. Nonetheless, there are other circumstances, which clearly establish that the prosecutrix was physically man-handled, and an attempt must have been made. From the statements of prosecution witnesses, who are the Police Officers in Byculla Police Station, it appears that after the incident, the Petitioner visited the Police Station at odd hours, which also indicates the conduct of the Applicant after the incident took place. Besides, because of the position of the Applicant, if released on bail, it is possible that the prosecution evidence may be tampered or affected. Though the charge-sheet has been filed, it will not be appropriate to enlarge the Applicant on bail, having regard to the strong circumstances indicating his complicity in relation to the

offence alleged by the prosecutrix. Hence, dismissed.

4. The only course open, is to direct the Trial Court to expedite the hearing of the case and proceed with the trial on day-to-day basis, to be concluded within three months hence, as the Ld. A.P.P. states on instructions that the trial may not take more than two months.

A.M.KHANWILKAR, J.